STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

October 14, 2005

MEMO TO: Don Lee, Berry Jenkins, Michael Taylor, Dan Bernhoft, Jay Bennett, Shannon Sweitzer, Judith Corley-Lay, Stuart Bourne, Jonathan Bivens, Jennifer Brandenburg, Brian Webb, Dave Rankin and Dave Hurley

FROM: J. V. Barbour, P. E.
State Project Services Engineer

SUBJECT: AGC/Roadway Subcommittee Meeting Minutes
September 14, 2005

The subject committee met on September 14, 2005 at 10:00 a.m. in the Riverwood Conference Room at the Century Center with the following in attendance:

Victor Barbour	Joel Howerton	Ted Sherrod
Jay Bennett	Berry Jenkins	Norma Smith
Jonathan Bivens	Don Lee	Ed Spencer
Judith Corley-Lay	Cynthia B. Perry	Shannon Sweitzer
Steve DeWitt	Ellis Powell	Michael Taylor
CA Gardner		Brian Webb

The following items were discussed:

1. CONFLICTS BETWEEN GRATES AND FRAMES ON BOXES IN SHOULDER BERM GUTTER AND PAVING OPERATIONS (820.04, 840.20, 840.18) AND SHOULDER BERM GUTTER BREAKING ADJACENT TO GUARDRAIL POSTS

The Industry stated there have been problems with frames and grates. The problems are breakage of the grate, frame and the concrete around them. Shoulder berm gutter is also cracking during placement of guardrail post. There was discussion of the problems and workaround solutions. Victor and Randy will discuss with Maintenance to determine how widespread the problem is and report to the Subcommittee.

2. PAYMENT FOR IMPERVIOUS DIKES, STREAM DIVERSIONS, ETC. TO INSTALL PIPES WHEN DIRECTED BUT NOT SHOWN ON PLANS

The Industry stated payments have been made for impervious dikes and stream diversions required for box culvert installations. However, on some recent projects the contractors were directed to install those items for pipe installations, but there were no pay items associated with them and dikes and diversions were not shown on the plans. The Department discussed the need for handling water properly during pipe installation and would look at how to best handle this on future projects.

3. UPDATE ON ACCEPTANCE PROCEDURE FOR CHANNELS

The Industry suggested that there should be an acceptance procedure for channels, since the various agencies do not always agree on acceptance criteria. It would lessen the time for acceptance of the channels. Department representatives stated that they would check with the agencies for clarification and would keep on the agenda for the Senior Staff Meetings.

4. CLARIFICATION OF ITEMS OF WORK ALLOWED TO BE PERFORMED WHILE UNDER AN ICA

The Industry asked for clarification of what work is allowed when under an ICA. The Department replied *immediate corrective action items only.* The Department policy in 1992 and 2000 states *all work shall cease.*

5. DEVELOPMENT OF APPEALS PROCESS FOR EROSION CONTROL

The Industry asked about an appeal process for erosion control. The Department said that appeals for erosion control would be handled through the contract administration process, just as any other appeal.

6. TIME FRAME FOR GROUNDCOVER

The Department stated effective October 1, 2005, Senate Bill 998 would change the time from 30 days to 21 calendar days for groundcover. The Industry stated they supported the bill. There will be a letter to contractors with the October 2005 letting. (Attachment No. 1 Senate Bill 998)

7. CLASS B STONE.

The Industry asked why Class B stone was paid for as temporary and permanent since it was the same item. The Department replied they prefer to keep them separate for estimating purposes. The Department tracks Class B stone for both temporary and permanent use.

8. UPDATE ON PAYMENT OF FUEL ADJUSTMENT.

The Department announced they would be eliminating the fuel price adjustment of 10%, effective with the November Letting. The Industry asked how it would work on a turnkey asphalt project. Would it be individual items or an aggregate? The Department said it would be on individual items. (Attachment No. 2 Project Special Provision and Fuel Price Adjustment Comparisons)

9. CONCRETE AND ASPHALT PLANTS ON DEPARTMENT R-O-W

The Department stated that contractors who construct concrete or asphalt plants on Department rights of way will be required to obtain a stormwater permit in addition to the permits already required. This is a result of legislative action and is effective October 1, 2005.

10. CRANE SAFETY

The Department distributed a revised Project Special Provision for Crane Safety, effective with the October 2005 letting. The revision states crane operators performing critical lifts shall be certified by July 1, 2006. (Attachment No. 3)

NEXT MEETING

The last meeting for 2005 will be at 10:00 a.m. on November 9, in the Riverwood Conference Room (formerly called Project Services Conference Room). You may want to reserve all day for the meeting in case it runs long, or there is a need to make a field trip in the afternoon.

C: Steve DeWitt, PE
Art McMillan, PE
C.A. Gardner, PE
Ellis Powell, PE
Ted Sherrod, PE
Cynthia B. Perry, PE
Joel Howerton

Attachment No. 1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005
SESSION LAW 2005-443
SENATE BILL 998

AN ACT to implement a provision of the coastal habitat protection plan by providing for greater flexibility in the use of funds from the riparian buffer restoration fund to construct alternative measures to reduce nutrient loading and by providing that if a land-disturbing activity leaves an exposed slope, the slope shall be planted with temporary or permanent ground cover within twenty-one calendar days.

The General Assembly of North Carolina enacts:

SECTION one. G.S. 143-214.21 reads as rewritten:

"§ 143-214.21. Riparian Buffer Protection Program: Riparian Buffer Restoration Fund.
The Riparian Buffer Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Riparian Buffer Restoration Fund shall provide a repository for monetary contributions to promote projects for the restoration, enhancement, or creation of riparian buffers or to construct approved alternative measures that reduce nutrient loading as well or better than ~~the~~ a riparian buffer that is lost and for compensatory mitigation fees paid to the Department. The Fund shall be administered by ~~the Division of Water Quality within~~ the Department. Moneys shall be expended from the Fund only for those purposes directly related to the restoration, acquisition, creation, enhancement, and maintenance of riparian buffers or to construct approved alternative measures that reduce nutrient loading as well or better than ~~the riparian buffer that is lost to offset the benefits to water quality, including the removal of nutrients, lost through the loss of buffers.~~a riparian buffer. Compensatory mitigation fees paid into the Fund in connection with the loss of riparian buffers in a river basin and the interest earned on those fees may be used only for projects in that river basin."

SECTION 2. G.S. 113A-57(2) reads as rewritten:

"§ 113A-57. Mandatory standards for land-disturbing activity.
No land-disturbing activity subject to this Article shall be undertaken except in accordance with the following mandatory requirements:
…
(2) The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion-control devices or structures. In any event, slopes left exposed will, within ~~15 working days or 30~~21 calendar days of completion of any phase of grading, ~~whichever period is shorter,~~ be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion.
…."

SECTION 3.
Sections 1 and 3 of this act are effective when it becomes law. Section 2 of this act becomes effective October 1, 2005.

In the General Assembly read three times and ratified this the 31st day of August, 2005.

s/ Beverly E. Perdue

President of the Senate
s/ James B. Black
Speaker of the House of Representatives
s/ Michael F. Easley
Governor
Approved 3:16 p.m. this 27th day of September, 2005

Attachment No. 2

FUEL PRICE ADJUSTMENT: **11-15-05**

Revise the 2002 *Standard Specifications* as follows:

Page 1-71 Subarticle 109-8, delete this subarticle and replace with the following:

Fuel price adjustments will be made to the payments due the Contractor for contract items specified in the contract, or for extra work items specified in the supplemental agreement, when the average terminal price has fluctuated from the Base Index Price contained in the contract.

The base index price for DIESEL #2 FUEL is $ _____ per gallon.

The selected items of work and the fuel factor used in calculating adjustment to be made are as follows:

Line #	Description	Units	Fuel Usage Factor Diesel
_____	Unclassified Excavation	Gal/CY	0.29
_____	Borrow Excavation	Gal/CY	0.29
_____	Aggregate Base Course	Gal/Ton	0.55
_____	Asphalt Concrete Base Course, Type B25.0 _____	Gal/Ton	2.90
_____	Asphalt Concrete Base Course, Type B37.5C	Gal/Ton	2.90
_____	Asphalt Concrete Intermediate Course, Type I19.0 _____	Gal/Ton	2.90
_____	Asphalt Concrete Surface Course, Type S4.75A & SF 9.5A _____	Gal/Ton	2.90
_____	Asphalt Concrete Surface Course, Type S9.5 _____	Gal/Ton	2.90
_____	Asphalt Concrete Surface Course, Type S12.5 _____	Gal/Ton	2.90
_____	Open-Graded Asphalt Friction Course	Gal/Ton	2.90
_____	Sand Asphalt Surface Course, Type F-1	Gal/Ton	2.90
_____	Aggregate for Cement Treated Base Course	Gal/Ton	0.55
_____	Portland Cement for Cement Treated Base Course	Gal/Ton	0.55
_____	_____ In. Portland Cement Concrete Pavement	Gal/SY	0.245
_____	Concrete Shoulders Adjacent to ____ In. Pavement	Gal/SY	0.245

The average terminal price is the average of the F.O.B. price for diesel fuel at the terminals in Charlotte, Wilmington and Selma, North Carolina. When the average terminal price fluctuates upward or downward from the Base Index Price, an amount will be added to or deducted from the monies due the Contractor as follows.

The current quantity for the specified contract items for which partial payment is made will be multiplied by the respective Diesel Fuel Usage Factor contained in the contract to determine the theoretical diesel fuel usage for each specified contract item. The sum of the theoretical diesel fuel usage for all specified contract items will be multiplied by the algebraic difference between the average F.O.B. price for diesel fuel at the above specified terminals and the Base Index Price

contained in the contract to determine the fuel price adjustment to be made on the partial payment estimate.

The following formula will be used to calculate the appropriate payment or credit on the estimate.

$$\mathbf{S} = (A - B)(\Sigma\, QF)$$

Where:
- S = Fuel Price Adjustment for partial payment
- B = Base Index Price
- A = Average terminal price
- Q = Partial payment quantity for contract item
- F = Fuel factor for contract item

The average terminal price in effect on the first day of the month in which the partial payment period ends will be used to make payment adjustments for fuel whether or not more than one price fluctuation has occurred within a single partial payment period.

The Engineer's estimate of quantities for contract items measured by cross sections shall be utilized on the various partial payment estimates to determine fuel price adjustments. When the Engineer determines after payment for all or a portion of such contract item that is subject to a fuel price adjustment that the total quantity of work paid to date shall be adjusted to reflect more accurate quantity determinations, the Engineer will make a pro rata increase or decrease in the fuel price adjustment proportionate to the adjustment in the total quantity of work paid. The prorated fuel price adjustment for the contract item will be determined by multiplying the cumulative fuel price adjustment made for that contract item for the previous estimate period(s) by the adjusted quantity for that contract item and divided by the total quantity of work paid for the previous estimates for the contract item. Payment for the prorated fuel price adjustment will be made accordingly on the partial payment estimate that includes the adjustment in the quantity of work paid.

SP1G43

			Fuels Included				Fuel Use
STATE	Method	Critical factor(s)	Diesel	Gasoline	LPG	Comments	Factors ?
Alabama	Calculated via Formula	Dept. determines and publishes monthly BFI using avg. terminal price reports for #2 fuel and gasoline from Platt's Oilgram Price Report	Yes	Yes	?	Based on adjustments to lump sum contract price for construction fuel and ratio of CFI/BFI incorporating % project completion	No
Arizona	Calculated	Per contract special provisions for diesel fuel initial cost established monthly and available on Dept. web site	Yes	?	?	When fluctuations in current diesel fuel price exceed 15% of initial cost	No
Colorado	Calculated via Formula	Per contract based on FPI determined by Dept. of monthly spot price per barrel (42 gal./bar.) of West Texas Intermed. crude	Yes	Yes	?	Based pay items and fuel use factors when CPI varies by +/- 10% of BPI and only for portion in excess of that 10%	Yes
Connecticut	None	n/a	n/a	n/a	n/a	Have no fuel adjustment clause	No
D. C.	None	n/a	n/a	n/a	n/a	Have no fuel adjustment clause	No
Florida	Calculated via Formula	Price index determined by Dept. per contract for diesel and gasoline and posted on web site; only applies to contract lengths over 100 days	Yes	Yes	?	CFP must exceed BFP by +/- 5%, and that 5% is excluded in adjustments	Yes
Georgia	?	Web research did not reveal any adjustment info	?	?	?	Fuel adustment not referenced in Sect.109	?
Idaho	Calculated	Per contract, excludes first 365 days of contract award; use avg. price of fuels, but when quoted price in excess of 20%, an avg. used in lieu of actual invoice	Yes	Yes	Yes	Price based on worksite invoice cost inclusive of freight/insurance and compared against quoted price, must be +/- 5% (see exception under critical factors)	No
Illinois	Calculated via Formula	Special provision per contract based on FPI (gal.) determined by Dept. on #2 fuel from Mid-Continent table and Platt's Oilgram	Yes	?	?	Note: have not used special provision in over ten years; must exceed 10% monthly project completion, API to Avg, price ratio must be +/- 5%	No
Iowa	Calculated via Formula	CPI established by Dept. on #2 high sulfur diesel per OPIS	Yes	?	?	Based on items of work covered in cubic yards and fuel use factors, adj. can be +/- and must exceed 20% diff. of CPI/BPI	$0.20 gal./ Cu.Yd.
Kentucky	Calculated via Formula	Based on avg. reseller price of diesel fuel excl. taxes, discounts, and superfund items; must exceed certain contract length hurdles	Yes	?	?	Limited to paving and excavation work w/thresshold quantities for eligible pay items and based on day work performed, avg. price must change +/-5%;	No
Louisiana	?	Received info from Louisiana; referenced, but did not include attachment and have been unsuccessful in finding that document on line.	Yes	?	?	Fuel adustment used on projects over 100 working days or 250 calendar days	?

			Fuels Included				Fuel Use
STATE	Method	Critical factor(s)	Diesel	Gasoline	LPG	Comments	Factors ?
Maine	Calculated	Based on BPI of #2 fuel oil and unleaded as determined by Dept. from AAA statewide fuel survey and included in contract	Yes	Yes	?	When period price exceeds FPI of 5% incorporating fuel use factors & quantities of fuels - Provision not used since 1994	Yes
Mississippi	Calculated via Formula	Base price included in bid docs and determined on bulk unleaded and diesel fuel from Platt's Oilgram PAD 2 and PAD 3	Yes	Yes	?	Use of adjustment codes and fuel use factors, no indications of any +/- hurdle ratios of CBP & MBP	Yes
Nevada	Calculated via Formula	Contract Price determined by Dept. of avg. #2 fuel oil base prices at select terminals per OPIS	Yes	?	?	Adjustment price must exceed contract price 25%, used in conjunction with fuel factor %, calculated bi-weekly	?
New Hampshire	Calculated	Prices set per contract and determined by Dept. on bulk retail inclusive of taxes	Yes	Yes	?	Based on contract eligible quantities and use factors, MFP must exceed FBI by 10%	Yes
New Jersey	Calculated via Formula	Based on avg. monthly retail fuel price for #2 fuel oil & unleaded	Yes	Yes	?	Based on pay items and useage factors and each category w/500 gal. Hurdle, FPI must be +/- BPI	Yes
New York	Calculated via Formula	Based on monthly APP FOB terminal for #2 fuel oil & unleaded in liters	Yes	Yes	?	Figured on fuel use factors and quantities of eligible work, APP must be > or < FPI by$0.03	Yes
North Carolina	Calculated	Based on avg. FOB price #2 diesel at select terminals per each contract	Yes	?	No	If BPI fluctuates >10% and as measured against fuel use factors	Yes
North Dakota	Calculated via Formula	BPI established on avg. monthly wholesale price as determined by Dept. for each contract	Yes	Yes	Yes	Based on a fuel allocation schedule and total fuel requirement determined in contract, must exceed by 5%	No
Oklahoma **	Calculated via Formula	Base price per contract (gal.) fixed by #2 diesel fuel re: Platt's Oilgram Price report	Yes	?	?	Adjusted up/down when fuel costs change by +/- 10% and differential of etimate use	Yes
Oregon	Calculated via Formula	BFP established for project, MFP established each month based on avg. weekly OPIS for reseller price of #2 diesel fuel	Yes	?	?	Applys to fluctuations of major fuel usage in excess of 25,100 gal. to pay items per usage factors when MFP is +/- 25% of BFP	Yes
Pennsylvania	Calculated via Formula	Based on high sulfur #2 diesel fuel per OPIS for fuel price index in bid vs. price index at performance time	Yes	?	?	Based on categories of work and fuel use factors, paid only when ratio is outside .95 - 1.05, can be +/-	Yes
			Fuels Included				Fuel Use

STATE	Method	Critical factor(s)	Diesel	Gasoline	LPG	Comments	Factors ?
South Carolina	Calculated via Formula	Base index prices established and changed when monthly index price changes by +/- 10%	Yes	Yes	?	Based on selected items of work fuel use factors in gallons; can be +/-	Yes
South Dakota	Calculated via Formula	Based on latest four week avg. #2 fuel oil per OPIS for CFI	Yes	Yes	Yes	Only when CFI range is outside 50-150% of BFI and based on contract total fuel requirmentusing fuel use factors	Yes***
Tennessee	Calculated via Formula	Based per contract and on Producer Price Index for light fuels per US DOL - BLS	Yes	Yes	Yes	Based on fuel consumption (liters) factors per pay unit and must vary + 5% of index	Yes
Utah	Calculated via Formula	Based on EP (based on West Texas Intermed. crude) vs. CBP	Yes	Yes	?	Based on fuel usage factors when EP has changed +/- 15% of CBP and adjustments can be +/-	Yes
Virginia	Calculated via Formula	BPI determined by Dept. using avg. #2 diesel fuel price in gal. at select terminals per contract	Yes		?	Based on pay items and use factors, must exceed 3% of BPI, can be +/-	Yes
Washington	None	n/a	n/a	n/a	n/a	No adjustments used	No
West Virginia	Calculated via Formula	Based on avg. #2 fuel oil per OPIS and CBP vs. MBP	Yes	?	?	Adjustments could be +/- and based on factors of fuel usage	Yes
Wisconsin	Calculated via Formula	BFI per contract and CFI per gallon avg. #2 fuel oil price in US Oil Week	Yes	?	?	CFI/BFI computed monthly, paid when ratio is outside 0.85-1.15, adjustments can be +/-	Yes
Wyoming	Calculated via Formula	BFI & CFI - based on OPIS avg. #2 fuel oil	Yes	Yes	Yes	If CFI is outside range of 85-115 % of BFI	No

Legend:

* BFI = Base Fuel Index	CPI = Current price index
CFI = Current Fuel Index	BPI == Base price index
CBP = Contract base price	APP = Average posted price
MBP = Monthly base price	OPIS = Oil Price Information Service
EP = Fuel partial estimate base price	CFP = Current fuel price
MFP = Monthly fuel price	BFP = Base fuel price
FPI = Fixed base index	** Draft document
BPI = Base price index	"?" indicates not mentioned/indicated in materials or found in web search
*** Referenced in docs, but unable to find table	

Attachment No. 3

CRANE SAFETY **10-18-05**

Comply with the manufacturer's specifications and limitations applicable to the operation of all cranes and derricks. Prime contractors, subcontractors, and fully operated rental companies shall comply with the current Occupational Safety and Health Administration regulations (OSHA).

Submit all items listed below to the Engineer prior to beginning crane operations involving critical lifts. A critical lift is defined as any lift that exceeds 75 percent of the manufacturer's crane chart capacity for the radius at which the load will be lifted or requires the use of more than one crane. Changes in personnel or equipment shall be reported to the Engineer and all applicable items listed below shall be updated and submitted prior to continuing with crane operations.

Crane Safety Submittal List

(A) **Competent Person** Provide the name and qualifications of the *Competent Person* responsible for crane safety and lifting operations. The named competent person will have the responsibility and authority to stop any work activity due to safety concerns.

(B) **Riggers** Provide the qualifications, experience and training of the persons responsible for rigging operations.Qualifications and experience should include, but not be limited to, weight calculations, center of gravity determinations, selection and inspection of sling and rigging equipment and safe rigging practices.

(C) **Crane Inspections** Inspection records for all cranes shall be current and readily accessible for review upon request.

(D) **Crane Operators By July 1, 2006** crane operators performing critical lifts shall be certified by NC CCO (National Commission for the Certification of Crane Operators), or satisfactorily complete the Carolinas AGC's Professional Crane Operator's Proficiency Program. Other approved nationally accredited programs will be considered upon request. All crane operators shall also have a current CDL medical card. Submit a list of anticipated critical lifts and corresponding crane operator(s). Include current certification for the type of crane operated, (small hydraulic, large hydraulic, small lattice, and large lattice) and medical evaluations for each operator.

SP1G160